



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

SOUTHWEST CENTER MEDICAL
7125 MARVIN D LOVE SUITE 107
DALLAS TX 75203

Respondent Name

DALLAS COUNTY

Carrier's Austin Representative Box

Box Number 44

MFDR Tracking Number

M4-09-A775-01

MFDR Date Received

JULY 27, 2009

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Provider submitted all of the above dates of service with relevant documentation in a timely manner. Carrier failed to respond to initial billing. A request was made for any EOBs for these dates of service. A request for reconsideration was submitted with USPS tracking information showing the claims were received at the carrier's post office address in a timely manner...For date of service 12.18.08-the carrier paid for the office visit; however, denied payment for the DWC-73 stating, '16G-Claim/Service lacks information which is needed for adjudication. No change in work status. DWC form -73 not required'. A request for reconsideration was submitted showing a change from the previous DWC-73."

Amount in Dispute: \$779.29

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Respondent has denied the amount billed due to the provider failing to send a medical bill within the 95-day time limit...The attached EOBs evidence that the bills for December 5, 2008 through December 10, 2008 were originally received on June 16, 2009...The only date of service timely received was the December 18, 2008 date of service...DWC-73 report. This service was denied as there was no change in the claimant's condition and the report was not necessary per Rule 129.5."

Response Submitted by: Harris & Harris

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 5, 2008 December 8, 2008 December 10, 2008	CPT Code 97530(X6)	\$242.76/each X 3 = \$728.28	\$713.34
December 5, 2008	HCPCS Code A4556	\$36.01	\$15.17
December 18, 2008	CPT Code 99080-73	\$15.00	\$15.00
TOTAL		\$779.29	\$743.51

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. Texas Labor Code §408.027, effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
3. 28 Texas Administrative Code §102.4(h), titled *General Rules for Non-Commission Communication*, effective May 1, 2005, sets out rules to determine when written documentation was sent.
4. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets out the reimbursement guidelines for professional services.
5. 28 Texas Administrative Code §129.5, effective July 16, 2000, sets out the procedure for reporting and billing work status reports.
6. 28 Texas Administrative Code §134.204, effective March 1, 2008, sets out medical fee guidelines for workers' compensation specific services.
7. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- No change in work status. DWC form 73 not required.
- 29E-The time limit for filing has expire. "Claim is to be submitted no later than the 95th day after the date on which the health care services are provided."
- 193T-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly. "Previous recommendation was in accordance with the PPO or Pharmacy discount agreement."
- 193-Original payment decision is being maintained. Upon review, it was determined that his claim was processed properly.

Issues

1. Does a timely filing issue exist?
2. Is the requestor entitled to reimbursement for CPT code 97530?
3. Is the requestor entitled to reimbursement for HCPCS code A4556?
4. Is the requestor entitled to reimbursement for CPT code 99080-73?

Findings

1. Texas Labor Code §408.027(a) states "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

28 Texas Administrative Code §102.4(h), states "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:

(1) the date received, if sent by fax, personal delivery or electronic transmission or,

(2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.

The requestor submitted certified green cards that indicate the disputed bills was sent to the correct address on December 23, 2008 and December 24, 2008 and signed by M Miner and A Miner. This date is within the 95 day deadline set out in Texas Labor Code §408.027(a); therefore, the Division finds that the disputed bills were submitted timely to the insurance carrier.

2. CPT code 97530 is defined as "Therapeutic activities, direct (one-on-one) patient contact (use of dynamic activities to improve functional performance), each 15 minutes."

The requestor submitted Primary Rehab Progress Notes that support 90 minutes of therapy; therefore, reimbursement is recommended.

Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2008 DWC conversion factor for this service is 52.83.

The Medicare Conversion Factor is 38.087

Review of Box 32 on the CMS-1500 the services were rendered in zip code 75237, which is located in Dallas, Texas. Therefore, the Medicare participating amount will be based on the reimbursement for Dallas, Texas.

The Medicare participating amount is \$28.57.

Using the above formula, the Division finds the following the MAR is \$39.63. The requestor billed for 6 units per day; therefore the total allowable is $\$39.63 \times 6 = \237.78 per day. This amount multiplied by three days = \$713.34.

3. HCPCS code A4556 is defined as "Electrodes (e.g., apnea monitor), per pair."
- 28 Texas Administrative Code §134 (d)(1) states "The MAR for Healthcare Common Procedure Coding System (HCPCS) Level II codes A, E, J, K, and L shall be determined as follows: 125 percent of the fee listed for the code in the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) fee schedule."
- According to the DMEPOS fee schedule, HCPCS code A4556 has a total allowable of \$12.14; therefore, $\$12.14 \times 125\% = \15.17 . This amount is recommended for reimbursement.

4. CPT code 99080-73 is defined as "Special reports such as insurance forms, more than the information conveyed in the usual medical communications or standard reporting form."
- 28 Texas Administrative Code §134.204 (l) states "The following shall apply to Work Status Reports. When billing for a Work Status Report that is not conducted as a part of the examinations outlined in subsections (i) and (j) of this section, refer to §129.5 of this title (relating to Work Status Reports)."

28 Texas Administrative Code §129.5(i)(1) states "Notwithstanding any other provision of this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the carrier, its agent, or the employer through its carrier, asks for an extra copy. The amount of reimbursement shall be \$15. A doctor shall not bill in excess of \$15 and shall not bill or be entitled to reimbursement for a Work Status Report which is not reimbursable under this section. Doctors are not required to submit a copy of the report being billed for with the bill if the report was previously provided. Doctors billing for Work Status Reports as permitted by this section shall do so as follows: (1) CPT code "99080" with modifier "73" shall be used when the doctor is billing for a report required under subsections (d)(1), (d)(2), and (f) of this section."

28 Texas Administrative Code §129.5 (d)(1) and (2) states "The doctor shall file the Work Status Report:

- (1) after the initial examination of the employee, regardless of the employee's work status;
- (2) when the employee experiences a change in work status or a substantial change in activity restrictions."

The requestor submitted copies of the work status reports filed on December 4, 2008 and December 18, 2008. The requestor supported a significant change in the claimant's work status to support billing for report per 28 Texas Administrative Code §129.5 (d)(2). As a result, the requestor is due \$15.00 for reimbursement..

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$743.51.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$743.51 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

10/3/2013

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.